IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISDICTION

WRIT PETITION NO.6127 OF 2004

Shri.Uttam Punja Pagar ..Petitioner

Vs.

Shri.Somnath Bhagu Sonawane
and Anr. ..Respondents

....

Mr.S.S.Kulkarni for Petitioner
Mr.R.M.Haridas for P.N.Joshi for Respondent No.1

....

CORAM : B.H.MARLAPALLE,J.
DATE : APRIL 5,2005

P.C.:

1. Heard Mr.Kulkarni, the learned counsel for the Petitioner and Mr.Joshi, the learned counsel for the Respondent No.1.

2. The Petitioner is impleaded as defendant no.1 in Special Civil Suit No. 190 of 1993. He submitted an affidavit by way of his evidence but in Marathi before the trial Court. It appears that the plaintiff filed an application at Exh.127 on which the trial Court called upon the defendant to file his say and he furnished an undertaking for placing on record the English transaction of the affidavit submitted in Marathi. However, by an order dated 14.3.2004, the learned Jt.C.J.S.D. at Nasik directed the defendant to file English affidavit dated

15.7.2004 positively failing which, the Court stated that necessary orders would be passed against the defendant and hence, this petition.

3. The petition can be disposed of at the admission stage itself. Once the defendant has presented his affidavit in Marathi by way of evidence, he is bound to supply an English translation thereof at the direction of the Court. However, insistence of the affidavit to be filed in English by the subordinate Court, is not warranted. The compliance of the Rule would be met by filing English transaction of the affidavit submitted originally in Marathi and in the instant case, the defendant has already furnished an undertaking to that effect. The Petition is therefore, disposed of by directing the defendant to place on record the English translation of his affidavit within a period of two weeks from today in case the same has not been placed on record till this date. The trial Court will not insist for an affidavit in English language. The trial of the suit is expedited.

4. Petition disposed of.

5. Writ to go to the trial Court forthwith.

[B.H.MARLAPALLE,J.]